(4)
W.P(S) 2007/05

IN THE STATE ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH AT JABALPUR

O.A. NO. 3147 OF 2000

APPLICANTS:

1. Subhash Chandra Sharma,
S/o Shri KRITARTH RATH Sharma,
Working as Lecturer in Government Higher Secondary School, Mahapalli, District Raigarh, Madhya Pradesh.

2. Anil Kumar Namdeo,
S/o Shri JAGESHWAR PRASAD Namdeo,
Working as Lecturer in Government Higher Secondary School, Mahapalli, District Raigarh, Madhya Pradesh.

3. Ramesh Kumar Sharma,
S/o Shri GOVERDHAN Sharma,
Working as Upper Division Teacher, Government Higher Secondary School, Mahapalli, District Raigarh, Madhya Pradesh.

Versus

RESPONDENTS:

1. State of Madhya Pradesh, Through: The Secretary, Department/Ministry of School Education, Vallabh Bhawan, Bhopal, Madhya Pradesh.

2. Commissioner/Director, Public Instructions, Madhya Pradesh, Bhopla.

3. Additional Director (Education)/Chief Executive Officer, District Panchayat, Raigarh, Madhya Pradesh.

4. District Education Officer, Raigarh, Madhya Pradesh.

5. Principal, Government Higher Secondary School, Mahapalli, Post Office Loing, District Raigarh, Madhya Pradesh.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT

(57)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 2007 of 2005

Petitioners : Subhash Chandra Sharma and others

Versus

Respondents : State of Madhya Pradesh (Now Chhattisgarh) & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Rajendra Tripathi, Advocate for the Petitioners.

Shri V.V.S. Moorthy, Deputy Advocate General with Smt. Anju Ahuja, Deputy Govt. Advocate for the State/respondents.

ORDER

(31st October, 2006)

1. The petitioners are working as Lecturers/Upper Division Teachers in the government schools. In the course of their services as Lecturers/Upper Division Teachers, the petitioners have obtained B.Ed. examination certificates on their own expenses before 1.3.1999.

2. The petitioners have acquired B.Ed. qualifications before 1.3.1999 in the year 1990-91, 1993-94 and 1995-96 respectively. The petitioners were initially granted two advance increments by order dated 22.5.1994, but the same was withdrawn by order dated 8.9.1994 (Annexure A-6).

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 (Annexure A-10) issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher may be Assistant Teacher, who has obtained B. Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case is squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petition is allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B. Ed. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash